

**SB200 INTRODUCED**



1 SHK075-1

2 By Senators Williams, Sessions, Stewart, Allen, Livingston,

3 Carnley, Bell, Stutts, Price, Hovey, Singleton, Gudger,

4 Scofield, Melson

5 RFD: Finance and Taxation Education

6 First Read: 11-Apr-23

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SYNOPSIS:

Under existing law, the gross proceeds from the sale of certain items are exempted from the tax levied on the sale of items in the state.

This bill would exempt the gross proceeds from the sale of materials purchased to be used as fencing for agriculture livestock purposes from the state's sales and use tax.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to sales tax exemptions; to amend Section 40-23-4, Code of Alabama 1975, as last amended by Act 2022-199, Act 2022-291, Act 2022-293, and Act 2022-373, 2022 Regular Session, to exempt from sales tax the gross proceeds from the sale of materials to be used as fencing in agriculture livestock applications.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-23-4, Code of Alabama 1975, as last amended by Act 2022-199, Act 2022-291, Act 2022-293, and Act 2022-373, 2022 Regular Session, is amended to read as follows:



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29           "§40-23-4

30           (a) There are exempted from the provisions of this  
31 division and from the computation of the amount of the tax  
32 levied, assessed, or payable under this division the  
33 following:

34           (1) The gross proceeds of the sales of lubricating oil and  
35 gasoline as defined in Sections 40-17-30 and 40-17-170 and the  
36 gross proceeds from those sales of lubricating oil destined  
37 for out-of-state use which are transacted in a manner whereby  
38 an out-of-state purchaser takes delivery of such oil at a  
39 distributor's plant within this state and transports it  
40 out-of-state, which are otherwise taxed.

41           (2) The gross proceeds of the sale, or sales, of  
42 fertilizer when used for agricultural purposes. The word  
43 "fertilizer" shall not be construed to include cottonseed  
44 meal, when not in combination with other materials.

45           (3) The gross proceeds of the sale, or sales, of seeds  
46 for planting purposes and baby chicks and poults. Nothing  
47 herein shall be construed to exempt or exclude from the  
48 computation of the tax levied, assessed, or payable, the gross  
49 proceeds of the sale or sales of plants, seedlings, nursery  
50 stock, or floral products.

51           (4) The gross proceeds of sales of insecticides and  
52 fungicides when used for agricultural purposes or when used by  
53 persons properly permitted by the Department of Agriculture  
54 and Industries or any applicable local or state governmental  
55 authority for structural pest control work and feed for  
56 livestock and poultry, but not including prepared food for



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57 dogs and cats.

58 (5) The gross proceeds of sales of all livestock by  
59 whomsoever sold, and also the gross proceeds of poultry and  
60 other products of the farm, dairy, grove, or garden, when in  
61 the original state of production or condition of preparation  
62 for sale, when such sale or sales are made by the producer or  
63 members of the producer's immediate family or for the producer  
64 by those employed by the producer to assist in the production  
65 thereof. Nothing herein shall be construed to exempt or  
66 exclude from the measure or computation of the tax levied,  
67 assessed, or payable hereunder, the gross proceeds of sales of  
68 poultry or poultry products when not products of the farm.

69 (6) Cottonseed meal exchanged for cottonseed at or by  
70 cotton gins.

71 (7) The gross receipts from the business on which, or  
72 for engaging in which, a license or privilege tax is levied by  
73 or under Sections 40-21-50, 40-21-53, and 40-21-56 through  
74 40-21-60; provided, that nothing contained in this subdivision  
75 shall be construed to exempt or relieve the person or persons  
76 operating the business enumerated in these sections from the  
77 payments of the tax levied by this division upon or measured  
78 by the gross proceeds of sales of any tangible personal  
79 property, except gas and water, the gross receipts from the  
80 sale of which are the measure of the tax levied by Section  
81 40-21-50, merchandise or other tangible commodities sold at  
82 retail by the persons, unless the gross proceeds of sale  
83 thereof are otherwise specifically exempted by this division.

84 (8) The gross proceeds of sales or gross receipts of or



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85 by any person, firm, or corporation, from the sale of  
86 transportation, gas, water, or electricity, of the kinds and  
87 natures, the rates and charges for which, when sold by public  
88 utilities, are customarily fixed and determined by the Public  
89 Service Commission of Alabama or like regulatory bodies.

90 (9) The gross proceeds of the sale, or sales of wood  
91 residue, coal, or coke to manufacturers, electric power  
92 companies, and transportation companies for use or consumption  
93 in the production of by-products, or the generation of heat or  
94 power used in manufacturing tangible personal property for  
95 sale, for the generation of electric power or energy for use  
96 in manufacturing tangible personal property for sale or for  
97 resale, or for the generation of motive power for  
98 transportation.

99 (10) The gross proceeds from the sale or sales of fuel  
100 and supplies for use or consumption aboard ships, vessels,  
101 towing vessels, or barges, or drilling ships, rigs or barges,  
102 or seismic or geophysical vessels, or other watercraft (herein  
103 for purposes of this exemption being referred to as "vessels")  
104 engaged in foreign or international commerce or in interstate  
105 commerce; provided, that nothing in this division shall be  
106 construed to exempt or exclude from the measure of the tax  
107 herein levied the gross proceeds of sale or sales of material  
108 and supplies to any person for use in fulfilling a contract  
109 for the painting, repair, or reconditioning of vessels,  
110 barges, ships, other watercraft, and commercial fishing  
111 vessels of over five tons load displacement as registered with  
112 the U.S. Coast Guard and licensed by the State of Alabama



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113 Department of Conservation and Natural Resources.

114 For purposes of this subdivision, it shall be presumed  
115 that vessels engaged in the transportation of cargo between  
116 ports in the State of Alabama and ports in foreign countries  
117 or possessions or territories of the United States or between  
118 ports in the State of Alabama and ports in other states are  
119 engaged in foreign or international commerce or interstate  
120 commerce, as the case may be. For the purposes of this  
121 subdivision, the engaging in foreign or international commerce  
122 or interstate commerce shall not require that the vessel  
123 involved deliver cargo to or receive cargo from a port in the  
124 State of Alabama. For purposes of this subdivision, vessels  
125 carrying passengers for hire, and no cargo, between ports in  
126 the State of Alabama and ports in foreign countries or  
127 possessions or territories of the United States or between  
128 ports in the State of Alabama and ports in other states shall  
129 be engaged in foreign or international commerce or interstate  
130 commerce, as the case may be, if, and only if, both of the  
131 following conditions are met: (i) The vessel in question is a  
132 vessel of at least 100 gross tons; and (ii) the vessel in  
133 question has an unexpired certificate of inspection issued by  
134 the United States Coast Guard or by the proper authority of a  
135 foreign country for a foreign vessel, which certificate is  
136 recognized as acceptable under the laws of the United States.  
137 Vessels that are engaged in foreign or international commerce  
138 or interstate commerce shall be deemed for the purposes of  
139 this subdivision to remain in such commerce while awaiting or  
140 under repair in a port of the State of Alabama if the vessel



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141 returns after such repairs are completed to engaging in  
142 foreign or international commerce or interstate commerce. For  
143 purposes of this subdivision, seismic or geophysical vessels  
144 which are engaged either in seismic or geophysical tests or  
145 evaluations exclusively in offshore federal waters or in  
146 traveling to or from conducting such tests or evaluations  
147 shall be deemed to be engaged in international or foreign  
148 commerce. For purposes of this subdivision, proof that fuel  
149 and supplies purchased are for use or consumption aboard  
150 vessels engaged in foreign or international commerce or in  
151 interstate commerce may be accomplished by the merchant or  
152 seller securing the duly signed certificate of the vessel  
153 owner, operator, or captain or such person's respective agent,  
154 on a form prescribed by the department, that the fuel and  
155 supplies purchased are for use or consumption aboard vessels  
156 engaged in foreign or international commerce or in interstate  
157 commerce. Any person filing a false certificate shall be  
158 guilty of a misdemeanor and upon conviction shall be fined not  
159 less than twenty-five dollars (\$25) nor more than five hundred  
160 dollars (\$500) for each offense. Each false certificate filed  
161 shall constitute a separate offense. Any person filing a false  
162 certificate shall be liable to the department for all taxes  
163 imposed by this division upon the merchant or seller, together  
164 with any interest or penalties thereon, by reason of the sale  
165 or sales of fuel and supplies applicable to the false  
166 certificate. If a merchant or seller of fuel and supplies  
167 secures the certificate herein mentioned, properly completed,  
168 the merchant or seller shall not be liable for the taxes



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169 imposed by this division, if the merchant or seller had no  
170 knowledge that the certificate was false when it was filed  
171 with the merchant or seller.

172 (11) The gross proceeds of sales of tangible personal  
173 property to the State of Alabama, to the counties within the  
174 state and to incorporated municipalities of the State of  
175 Alabama.

176 (12) The gross proceeds of the sale or sales of  
177 railroad cars, vessels, barges, and commercial fishing vessels  
178 of over five tons load displacement as registered with the  
179 U.S. Coast Guard and licensed by the State of Alabama  
180 Department of Conservation and Natural Resources, when sold by  
181 the manufacturers or builders thereof.

182 (13) The gross proceeds of the sale or sales of  
183 materials, equipment, and machinery that, at any time, enter  
184 into and become a component part of ships, vessels, towing  
185 vessels or barges, or drilling ships, rigs or barges, or  
186 seismic or geophysical vessels, other watercraft and  
187 commercial fishing vessels of over five tons load displacement  
188 as registered with the U.S. Coast Guard and licensed by the  
189 State of Alabama Department of Conservation and Natural  
190 Resources. Additionally, the gross proceeds from the sale or  
191 sales of lifeboats, personal flotation devices, ring life  
192 buoys, survival craft equipment, distress signals, EPIRB's,  
193 fire extinguishers, injury placards, waste management plans  
194 and logs, marine sanitation devices, navigation rulebooks,  
195 navigation lights, sound signals, navigation day shapes, oil  
196 placard cards, garbage placards, FCC SSL, stability





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197 instructions, first aid equipment, compasses, anchor and radar  
198 reflectors, general alarm systems, bilge pumps, piping, and  
199 discharge and electronic position fixing devices which are  
200 used on the aforementioned watercraft.

201 (14) The gross proceeds of the sale or sales of fuel  
202 oil purchased as fuel for kiln use in manufacturing  
203 establishments.

204 (15) The gross proceeds of the sale or sales of  
205 tangible personal property to county and city school boards  
206 within the State of Alabama, independent school boards within  
207 the State of Alabama, all educational institutions and  
208 agencies of the State of Alabama, the counties within the  
209 state, or any incorporated municipalities of the State of  
210 Alabama, and private educational institutions operating within  
211 the State of Alabama offering conventional and traditional  
212 courses of study, such as those offered by public schools,  
213 colleges, or universities within the State of Alabama; but not  
214 including nurseries, day care centers, and home schools.

215 (16) The gross proceeds from the sale of all devices or  
216 facilities, and all identifiable components thereof, or  
217 materials for use therein, acquired primarily for the control,  
218 reduction, or elimination of air or water pollution and the  
219 gross proceeds from the sale of all identifiable components  
220 of, or materials used or intended for use in, structures built  
221 primarily for the control, reduction, or elimination of air  
222 and water pollution.

223 (17) The gross proceeds of sales of tangible personal  
224 property or the gross receipts of any business which the state



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225 is prohibited from taxing under the Constitution or laws of  
226 the United States or under the Constitution of this state.

227 (18) When dealers or distributors use parts taken from  
228 stocks owned by them in making repairs without charge for the  
229 parts to the owner of the property repaired pursuant to  
230 warranty agreements entered into by manufacturers, such use  
231 shall not constitute taxable sales to the manufacturers,  
232 distributors, or to the dealers, under this division or under  
233 any county sales tax law.

234 (19) The gross proceeds received from the sale or  
235 furnishing of food, including potato chips, candy, fruit and  
236 similar items, soft drinks, tobacco products, and stationery  
237 and other similar or related articles by hospital canteens  
238 operated by Alabama state hospitals at Bryce Hospital and  
239 Partlow State School for Mental Deficients at Tuscaloosa,  
240 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the  
241 benefit of the patients therein.

242 (20) The gross proceeds of the sale, or sales, of  
243 wrapping paper and other wrapping materials when used in  
244 preparing poultry or poultry products for delivery, shipment,  
245 or sale by the producer, processor, packer, or seller of such  
246 poultry or poultry products, including pallets used in  
247 shipping poultry and egg products, paper or other materials  
248 used for lining boxes or other containers in which poultry or  
249 poultry products are packed together with any other materials  
250 placed in such containers for the delivery, shipment, or sale  
251 of poultry or poultry products.

252 (21) The gross proceeds of the sales of all



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253 antibiotics, hormones and hormone preparations, drugs,  
254 medicines or medications, vitamins, minerals or other  
255 nutrients, and all other feed ingredients including  
256 concentrates, supplements, and other feed ingredients when  
257 such substances are used as ingredients in mixing and  
258 preparing feed for fish raised to be sold on a commercial  
259 basis, livestock, and poultry. Such exemption herein granted  
260 shall be in addition to exemptions now provided by law for  
261 feed for fish raised to be sold on a commercial basis,  
262 livestock, and poultry, but not including prepared foods for  
263 dogs or cats.

264 (22) The gross proceeds of the sale, or sales, of  
265 seedlings, plants, shoots, and slips which are to be used for  
266 planting vegetable gardens or truck farms and other  
267 agricultural purposes. Nothing herein shall be construed to  
268 exempt, or exclude from the computation of the tax levied,  
269 assessed, or payable, the gross proceeds of the sale, or the  
270 use of plants, seedlings, shoots, slips, nursery stock, and  
271 floral products, except as hereinabove exempted.

272 (23) The gross proceeds of the sale, or sales, of  
273 fabricated steel tube sections, when produced and fabricated  
274 in this state by any person, firm, or corporation for any  
275 vehicular tunnel for highway vehicular traffic, when sold by  
276 the manufacturer or fabricator thereof, and also the gross  
277 proceeds of the sale, or sales, of steel which enters into and  
278 becomes a component part of such fabricated steel tube  
279 sections of said tunnel.

280 (24) The gross proceeds from sales of admissions to any



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281 theatrical production, symphonic or other orchestral concert,  
282 ballet, or opera production when the concert or production is  
283 presented by any society, association, guild, or workshop  
284 group, organized within this state, whose members or some of  
285 whose members regularly and actively participate in the  
286 concerts or productions for the purposes of providing a  
287 creative outlet for the cultural and educational interests of  
288 its members, and of promoting such interests for the  
289 betterment of the community by presenting the productions to  
290 the general public for an admission charge. The employment of  
291 a paid director or conductor to assist in any such  
292 presentation described in this subdivision shall not be  
293 construed to prohibit the exemptions herein provided.

294 (25) The gross proceeds of sales of "herbicides" for  
295 agricultural uses by whomsoever sold. The term herbicides, as  
296 used in this subdivision, means any substance or mixture of  
297 substances intended to prevent, destroy, repel, or retard the  
298 growth of weeds or plants. The term includes preemergence  
299 herbicides, postemergence herbicides, lay-by herbicides,  
300 pasture herbicides, defoliant herbicides, and desiccant  
301 herbicides.

302 (26) The Alabama Chapter of the Cystic Fibrosis  
303 Research Foundation and the Jefferson Tuberculosis Sanatorium  
304 and any of their departments or agencies, heretofore or  
305 hereafter organized and existing in good faith in the State of  
306 Alabama for purposes other than for pecuniary gain and not for  
307 individual profit, shall be exempted from the computation of  
308 the tax on the gross proceeds of all sales levied, assessed,



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309 or payable.

310 (27) The gross proceeds from the sale or sales of fuel  
311 for use or consumption aboard commercial fishing vessels are  
312 exempt from the computation of all sales taxes levied,  
313 assessed, or payable under this division or levied under any  
314 county or municipal sales tax law.

315 (28) The gross proceeds from the sales of rope, fishing  
316 nets, tools, or any substitute used directly in the process of  
317 commercial fishing by a holder of a commercial license issued  
318 pursuant to Chapter 12 of Title 9.

319 (29) The gross proceeds of sales of sawdust, wood  
320 shavings, wood chips, and other like materials sold for use as  
321 chicken litter by poultry producers and poultry processors.

322 (30) The gross proceeds of the sales of all  
323 antibiotics, hormones and hormone preparations, drugs,  
324 medicines, and other medications including serums and  
325 vaccines, vitamins, minerals, or other nutrients for use in  
326 the production and growing of fish, livestock, and poultry by  
327 whomsoever sold. The exemption herein granted shall be in  
328 addition to the exemption provided by law for feed for fish,  
329 livestock, and poultry, and in addition to the exemptions  
330 provided by law for the above-enumerated substances and  
331 products when mixed and used as ingredients in fish,  
332 livestock, and poultry feed.

333 (31) The gross proceeds of the sale or sales of all  
334 medicines prescribed by physicians for persons who are 65  
335 years of age or older, and when the prescriptions are filled  
336 by licensed pharmacists, shall be exempted under this division



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337 or under any county or municipal sales tax law. The exemption  
338 provided in this section shall not apply to any medicine  
339 purchased in any manner other than as is herein provided.

340 For the purposes of this subdivision, proof of age may  
341 be accomplished by filing with the dispensing pharmacist any  
342 one or more of the following documents:

343 a. The name and claim number as shown on a Medicare  
344 card issued by the United States Social Security  
345 Administration.

346 b. A certificate executed by any adult person having  
347 knowledge of the fact that the person for whom the medicine  
348 was prescribed is not less than 65 years of age.

349 c. An affidavit executed by any adult person having  
350 knowledge of the fact that the person for whom the medicine  
351 was prescribed is not less than 65 years of age.

352 For the purposes of this subdivision, any person filing  
353 a false proof of age shall be guilty of a misdemeanor and upon  
354 conviction thereof shall be punished by a fine of one hundred  
355 dollars (\$100).

356 (32) There shall be exempted from the tax levied by  
357 this division the gross receipts of sales of grass sod of all  
358 kinds and character when in the original state of production  
359 or condition of preparation for sale, when the sales are made  
360 by the producer or members of the producer's family or for the  
361 producer by those employed by the producer to assist in the  
362 production thereof; provided, that nothing herein shall be  
363 construed to exempt sales of sod by a person engaged in the  
364 business of selling plants, seedlings, nursery stock, or



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365 floral products.

366 (33) The gross receipts of sales of the following items  
367 or materials that are necessary in the farm-to-market  
368 production of tomatoes when such items or materials are used  
369 by the producer or members of the producer's family or for the  
370 producer by those employed by the producer to assist in the  
371 production thereof: Twine for tying tomatoes, tomato stakes,  
372 field boxes (wooden boxes used to take tomatoes from the  
373 fields to shed), and tomato boxes used in shipments to  
374 customers.

375 (34) The gross proceeds from the sale of liquefied  
376 petroleum gas or natural gas sold to be used for agricultural  
377 purposes.

378 (35) The gross receipts of sales from state nurseries  
379 of forest tree seedlings.

380 (36) The gross receipts of sales of forest tree seed by  
381 the state.

382 (37) The gross receipts of sales of Lespedeza bicolor  
383 and other species of perennial plant seed and seedlings sold  
384 for wildlife and game food production purposes by the state.

385 (38) The gross receipts of any aircraft manufactured,  
386 sold, and delivered in this state if the aircraft are not  
387 permanently domiciled in Alabama and are removed to another  
388 state.

389 (39) The gross proceeds from the sale or sales of all  
390 diesel fuel used for off-highway agricultural purposes.

391 (40) The gross proceeds from sales of admissions to any  
392 sporting event that:



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393 a. Takes place in the State of Alabama on or after  
394 January 1, 1984, regardless of when such sales occur; and

395 b. Is hosted by a not-for-profit corporation organized  
396 and existing under the laws of the State of Alabama; and

397 c. Determines a national championship of a national  
398 organization, including, but not limited to, the Professional  
399 Golfers Association of America, the Tournament Players  
400 Association, the United States Golf Association, the United  
401 States Tennis Association, and the National Collegiate  
402 Athletic Association; and

403 d. Has not been held in the State of Alabama on more  
404 than one prior occasion, provided, however, that for such  
405 purpose the Professional Golfers Association Championship, the  
406 United States Open Golf Championship, the United States  
407 Amateur Golf Championship of the United States Golf  
408 Association, and the United States Open Tennis Championship  
409 shall each be treated as a separate event.

410 (41) The gross receipts from the sale of any aircraft  
411 and replacement parts, components, systems, supplies, and  
412 sundries affixed or used on the aircraft and ground support  
413 equipment and vehicles used by or for the aircraft to or by a  
414 certificated or licensed air carrier with a hub operation  
415 within this state, for use in conducting intrastate,  
416 interstate, or foreign commerce for transporting people or  
417 property by air. For the purpose of this subdivision, the  
418 words "hub operation within this state" shall be construed to  
419 have both of the following criteria:

420 a. There originates from the location 15 or more flight





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421 departures and five or more different first-stop destinations  
422 five days per week for six or more months during the calendar  
423 year.

424 b. Passengers or property or both are regularly  
425 exchanged at the location between flights of the same or a  
426 different certificated or licensed air carrier.

427 (42) The gross receipts from the sale of hot or cold  
428 food and beverage products sold to or by a certificated or  
429 licensed air carrier with a hub operation within this state,  
430 for use in conducting intrastate, interstate, or foreign  
431 commerce for transporting people or property by air. For the  
432 purpose of this subdivision, the words "hub operation within  
433 this state" shall be construed to have all of the following  
434 criteria:

435 a. There originates from the location 15 or more flight  
436 departures and five or more different first-stop destinations  
437 five days per week for six or more months during the calendar  
438 year.

439 b. Passengers or property or both are regularly  
440 exchanged at the location between flights of the same or a  
441 different certificated or licensed air carrier.

442 (43) The gross receipts from the sale of any aviation  
443 jet fuel to a certificated or licensed air carrier purchased  
444 for use in scheduled all-cargo operations being conducted on  
445 international flights or in international commerce. For  
446 purposes of this subdivision, the following words or terms  
447 shall be defined and interpreted as follows:

448 a. Air Carrier. Any person, firm, corporation, or



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449 entity undertaking by any means, directly or indirectly, to  
450 provide air transportation.

451         b. All-Cargo Operations. Any flight conducted by an air  
452 carrier for compensation or hire other than a passenger  
453 carrying flight, except passengers as specified in 14 C.F.R. §  
454 121.583(a) or 14 C.F.R. § 135.85, as amended.

455         c. International Commerce. Any air carrier engaged in  
456 all-cargo operations transporting goods for compensation or  
457 hire on international flights.

458         d. International Flights. Any air carrier conducting  
459 scheduled all-cargo operations between any point within the 50  
460 states of the United States and the District of Columbia and  
461 any point outside the 50 states of the United States and the  
462 District of Columbia, including any interim stops within the  
463 United States so long as the ultimate origin or destination of  
464 the aircraft is outside the United States and the District of  
465 Columbia.

466         (44) The gross proceeds of the sale or sales of the  
467 following:

468         a. Drill pipe, casing, tubing, and other pipe used for  
469 the exploration for or production of oil, gas, sulphur, or  
470 other minerals in offshore federal waters.

471         b. Tangible personal property exclusively used for the  
472 exploration for or production of oil, gas, sulphur, or other  
473 minerals in offshore federal waters.

474         c. Fuel and supplies for use or consumption aboard  
475 boats, ships, aircraft, and towing vessels when used  
476 exclusively in transporting persons or property between a



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477 point in Alabama and a point or points in offshore federal  
478 waters for the exploration for or production of oil, gas,  
479 sulphur, or other minerals in offshore federal waters.

480 d. Drilling equipment that is used for the exploration  
481 for or production of oil, gas, sulphur, or other minerals,  
482 that is built for exclusive use outside this state and that  
483 is, on completion, removed forthwith from this state.

484 The delivery of items exempted by this subdivision to  
485 the purchaser or lessee in this state does not disqualify the  
486 purchaser or lessee from the exemption if the property is  
487 removed from the state by any means, including by the use of  
488 the purchaser's or lessee's own facilities.

489 The shipment to a place in this state of equipment  
490 exempted by this subdivision for further assembly or  
491 fabrication does not disqualify the purchaser or lessee from  
492 the exemption if on completion of the further assembly or  
493 fabrication the equipment is removed forthwith from this  
494 state. This subdivision applies to a sale that may occur when  
495 the equipment exempted is further assembled or fabricated if  
496 on completion the equipment is removed forthwith from this  
497 state.

498 (45) The gross receipts derived from all bingo games  
499 and operations that are conducted in compliance with validly  
500 enacted legislation authorizing the conduct of such games and  
501 operations, and which comply with the distribution  
502 requirements of the applicable local laws; provided that the  
503 exemption from sales taxation granted by this subdivision  
504 shall apply only to gross receipts taxable under subdivision



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505 (2) of Section 40-23-2. It is further provided that this  
506 exemption shall not apply to any gross receipts from the sale  
507 of tangible personal property, such as concessions, novelties,  
508 food, beverages, etc. The exemption provided for in this  
509 section shall be limited to those games and operations by  
510 organizations that have qualified for exemption under the  
511 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or  
512 (19), or which are defined in 26 U.S.C. § 501(d).

513 (46) The gross receipts derived from the sale or sales  
514 of fruit or other agricultural products by the person or  
515 company, as defined in Section 40-23-1, that planted or  
516 cultivated and harvested the fruit or agricultural product,  
517 when the land is owned or leased by the seller.

518 (47) The gross receipts derived from the sale or sales  
519 of all domestically mined or produced coal, coke, and coke  
520 by-products used in cogeneration plants.

521 (48) The gross receipts from the sale or sales of  
522 metal, other than gold or silver, when such metal is purchased  
523 for the purpose of transferring such metal to an investment  
524 trust in exchange for shares or other units, each of which are  
525 both publicly traded and represent fractional undivided  
526 beneficial interests in the trust's net assets, including  
527 metal stored in warehouses located in this state, as well as  
528 the gross proceeds from the sale or other transfer of such  
529 metal to or from the investment trust in exchange for shares  
530 or other units that are publicly traded and represent  
531 fractional undivided beneficial interests in the trust's net  
532 assets but not to the extent that metal is transferred to or



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533 from the investment trust in exchange for consideration other  
534 than such publicly traded shares or other units. For purposes  
535 of this subdivision, the term "metals" includes, but is not  
536 limited to, copper, aluminum, nickel, zinc, tin, lead, and  
537 other similar metals typically used in commercial and  
538 industrial applications.

539 (49)a. For the period commencing on October 1, 2012,  
540 and ending May 30, 2027, the gross receipts from the sale of  
541 parts, components, and systems that become a part of a fixed  
542 or rotary wing military aircraft or certified transport  
543 category aircraft that undergoes conversion, reconfiguration,  
544 or general maintenance so long as the address of the aircraft  
545 for FAA registration is not in the state; provided, however,  
546 that this exemption shall not apply to a local sales tax  
547 unless previously exempted by local law or approved by  
548 resolution of the local governing body.

549 b. The exemption authorized by this subdivision shall  
550 not be available for sales of parts, components, or systems  
551 for new contracts or projects entered into after May 30, 2027,  
552 unless the Legislature enacts legislation to continue or  
553 reinstate the exemption for new contracts or projects after  
554 that date. No action or inaction on the part of the  
555 Legislature shall reduce, suspend, or disqualify sales of  
556 parts, components, or systems from the exemption in any past  
557 year or future years until May 30, 2030, with respect to  
558 contracts or projects entered into on or before May 30, 2027;  
559 it being the sole intent that failure of the Legislature to  
560 enact legislation to reinstate the exemption for new contracts



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561 or projects after May 30, 2027, shall affect only the  
562 availability of the exemption to new contracts and projects  
563 after that date and shall not affect availability of the  
564 exemption for contracts or projects entered into on or before  
565 May 30, 2027, for which the exemption shall be available until  
566 May 30, 2030.

567 (50) The gross proceeds from the sale or sales within  
568 school buildings of lunches to pupils of kindergarten,  
569 grammar, and high schools, either public or private, that are  
570 not sold for profit.

571 (51) The gross proceeds of services provided by  
572 photographers, including, but not limited to, sitting fees and  
573 consultation fees, even when provided as part of a transaction  
574 ultimately involving the sale of one or more photographs, so  
575 long as the exempt services are separately stated to the  
576 customer on a bill of sale, invoice, or like memorialization  
577 of the transaction. For transactions occurring before October  
578 1, 2017, neither the Department of Revenue nor local tax  
579 officials may seek payment for sales tax not collected. With  
580 regard to such transactions in which sales tax was collected  
581 and remitted on services provided by photographers, neither  
582 the taxpayer nor the entity remitting sales tax shall have the  
583 right to seek refund of such tax.

584 (52) a. For the period commencing on June 1, 2018, and  
585 ending 10 years thereafter, unless extended by an act of the  
586 Legislature, the gross proceeds of sales of bullion or money,  
587 as defined in Section 40-1-1(7).

588 b. For purposes of this subdivision, the following



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589 words or terms shall be defined and interpreted as follows:

590 1. Bullion. Gold, silver, platinum, palladium, or a  
591 combination of each precious metal, that has gone through a  
592 refining process and for which the item's value depends on its  
593 mass and purity, and not on its form, numismatic value, or  
594 other value. The term includes bullion in the form of bars,  
595 ingots, rounds, or coins that meet the requirements set forth  
596 above. Qualifying bullion may contain other metals or  
597 substances, provided that the other substances are minimal in  
598 value compared with the value of the gold, silver, platinum,  
599 or palladium and the other substances do not add value to the  
600 item. For purposes of this subparagraph, "gold, silver,  
601 platinum, or palladium" does not include jewelry or works of  
602 art.

603 2. Mass. An item's mass is its weight in precious  
604 metal.

605 3. Numismatic Value. An external value above and beyond  
606 the base value of the underlying precious metal, due to the  
607 item's rarity, condition, age, or other external factor.

608 4. Purity. An item's purity is the proportion of  
609 precious metal contained within.

610 c. In order for bullion to qualify for the sales tax  
611 exemption, gold, silver, platinum, and palladium items must  
612 meet all of the following requirements:

613 1. Must be refined.

614 2. Must contain at least 80 percent gold, silver,  
615 platinum, or palladium or some combination of these metals.

616 3. The sales price of the item must fluctuate with and



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617 depend on the market price of the underlying precious metal,  
618 and not on the item's rarity, condition, age, or other  
619 external factor.

620 (53) a. The gross proceeds of the initial retail sales  
621 of adaptive equipment that is permanently affixed to a motor  
622 vehicle.

623 b. For the purposes of this subdivision, the following  
624 words or terms shall be defined and interpreted as follows:

625 1. Adaptive Equipment. Equipment not generally used by  
626 persons with normal mobility that is appropriate for use in a  
627 motor vehicle and that is not normally provided by a motor  
628 vehicle manufacturer.

629 2. Motor Vehicle. A vehicle as defined in Section  
630 40-12-240.

631 3. Motor Vehicle Manufacturer. Every person engaged in  
632 the business of constructing or assembling vehicles or  
633 manufactured homes.

634 c. In order to qualify for the exemption provided for  
635 herein, the adaptive equipment must be separately stated to  
636 the customer on a bill of sale, invoice, or like  
637 memorialization of the transaction.

638 (54) For the period commencing on October 1, 2022, and  
639 ending September 30, 2027, unless extended by an act of the  
640 Legislature, the gross receipts derived from the sale of  
641 producer value added agricultural products when the sale is  
642 made by the producer or by the producer's immediate family, or  
643 for the producer by the producer's employees.

644 [\(55\) The gross proceeds from the sale or sales of](#)





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645 fencing materials such as t-posts, wood posts, barbed wire,  
646 net wire, smooth wire, standard metal gates, and other like  
647 materials used for the purpose of fencing in agriculture  
648 livestock applications.

649 (b) Any violation of any provision of this section  
650 shall be punishable in a court of competent jurisdiction by a  
651 fine of not less than five hundred dollars (\$500) and no more  
652 than two thousand dollars (\$2,000) and imprisonment of not  
653 less than six months nor more than one year in the county  
654 jail."

655 Section 2. This act shall become effective on the first  
656 day of the third month following its passage and approval by  
657 the Governor, or its otherwise becoming law.